

TITLE 326 AIR POLLUTION CONTROL BOARD

#99-93(APCB)

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from June 1, 1999, through June 30, 1999, on IDEM's draft rule language.

IDEM received comments from the following party:

DeRolf Environmental Consulting Agency, Inc. (DECA)

Following is a summary of the comments received and IDEM's responses thereto.

Comment: DECA agrees with IDEM's initiating this rulemaking under IC 13-14-9-7 which provides for only one public comment period. (DECA)

Response: IDEM appreciates DECA's comment and will be proceeding accordingly.

Comment: IDEM should continue to list out the compounds being delisted along with CAS and CFC numbers, rather than incorporating the CFR and FR cites which relate to them. The current delisted compounds (326 IAC 1-2-48 (a)(1-24)) should be retained. Simply referencing CFR and FR cites places a burden on the general public, since few libraries maintain current copies of the CFR and FR, whereas spelling out the list of compounds adds clarity. The costs would be negligible while adding value to the rule and that this would reverse a disturbing trend of making Indiana rules nothing more than a collection of references to federal documents. (DECA)

Response: IDEM is revising the format of 326 IAC 1-2-48 from a listing of exempt compounds to incorporation of the CFR citation where compounds that have been determined to be non-photochemically or negligibly photochemically reactive are listed. The department does a rulemaking annually that revises references to the CFR in Title 326 to the most recent published version. The list of compounds determined to have negligible photochemical reactivity is revised periodically by U.S. EPA, therefore, changing the format of our rule to reference the CFR is an efficient use of state rulemaking resources since it cuts down the number of potential rulemakings and ensures that revisions get updated on a timely and regular basis. Since the last revision of this rule, there have been 21 volatile organic compounds delisted by U.S. EPA that are not reflected in the current state rule. To maintain a listing in the state rule would defeat the purpose of this rulemaking. Current copies of the CFR and FR are available from federal depository libraries, U.S. EPA, IDEM's main office and regional offices, local environmental agencies and are electronically available on the Internet on both state and federal websites. IDEM believes that the majority of those affected by this rulemaking, have access to the CFR and FR.

Comment: These amendments should be reflected in the portions of 326 IAC 8 that specifically regulate such compounds as many people are not aware of the ramifications of 326 IAC 1-2-48(b). (DECA)

Response: The purpose of this rulemaking is to revise 326 IAC 1-2-48 to be consistent with the federal definition of VOC which includes nonphotochemically reactive hydrocarbon or negligibly photochemically reactive compounds. The definition of nonphotochemically reactive hydrocarbons at 326 IAC 1-2-48 is cross referenced within the 326 IAC 8, VOC rules, when appropriate.

Comment: As part of this rulemaking, the definition of “solvent” in 326 IAC 1-2-72 should be revised as it relates to this rulemaking so that the agency is relieved from regulating compounds that do not contribute to the formation of tropospheric ozone.

Response: This rulemaking only serves to update the list of volatile organic compounds with negligible photochemical reactivity recently delisted by U.S. EPA, and change the rule format to be consistent with U.S. EPA. These compounds are still considered solvents; and this rulemaking does not contradict or change the definition of “solvent” in 326 IAC 1-2-72.